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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/032,161	12/21/2001	Uresh K. Vahalia	EMC-98-092 CON(1)	5930

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EXAMINER	
NGUYEN, DUSTIN	

ART UNIT	PAPER NUMBER
2154	

DATE MAILED: 11/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/032,161	VAHALIA ET AL.	
	Examiner	Art Unit	
	Dustin Nguyen	2154	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *21 December 2001*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *50-66* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *50-66* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. Claims 50 – 66 are presented for examination.

Information Disclosure Statement

2. Examiner requests Applicants to update status of any related cases as disclosed in the specification.

Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington,* 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 50-66 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-30 of U.S. Patent No. 6,324,581 [hereinafter as '581 patent]. Although the conflicting claims are not identical,

they are not patentably distinct from each other because they are claiming common subject matter as follow:

Taking claim 50 as an exemplary claim, the '581 patent contains the subject matter claimed in the instant application. As per claim 50, both applications are claiming common subject matter, as follows:

A method of accessing data in a data stored in a data storage location, the method comprising:

a server receiving ...;

in response to the request for data ...; and

using the metadata of the file, ...

The instant application does not specifically disclose the first and second data movers as disclosed in the '581 patent, but it would have been obvious to a person skill in the art at the time the invention was made to realize that the server and client of the instant application perform the same function as the data movers of the '581 patent.

As per independent claim 61, it is also directed to the same subject matter recited in claim 50 above. Accordingly, it is provisionally rejected under the judicially created doctrine of obviousness-type double patenting.

As per dependent claims 51-60, and 62-66, they are depending on rejected claims, they are provisionally rejected under the judicially created doctrine of obviousness-type double patenting.

5. Claims 50-66 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 8-18 of copending Application No. 09/261,621 [hereinafter '621 application]. Although the conflicting claims are not identical, they are not patentably distinct from each other because of the following reasons:

Taking claim 50 as an exemplary claim, the '261 application contains the subject matter claimed in the instant application. As per claim 50, both applications are claiming common subject matter, as follows:

A method of accessing data in a data stored in a data storage location, the method comprising:

a server receiving ...;

in response to the request for data ...; and

using the metadata of the file, ...

The claim 8 of '261 application does not contain the method steps in the same order as the instant application. However, it would have been an obvious modification for one of ordinary skill in the art at the time the invention was made to perform the steps in the same order as claimed because doing so would have enabled to produce the same advantage for accessing data as claimed in both applications.

As per independent claim 61, it is also directed to the same subject matter recited in claim 50 above. Accordingly, they are provisionally rejected under the judicially created doctrine of obviousness-type double patenting.

As per dependent claims 51-60 and 62-66, of the instant application, they contain similar subject matter as claims 9-18 of the '261 application. Accordingly, they are provisionally rejected under the judicially created doctrine of obviousness-type double patenting.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims 50, 53, 54, 61, 64 and 65 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yasue [US Patent No 6,289,345], in view of Burns et al. [US Patent No 6,088,694].

8. As per claim 50, Yasue discloses the invention substantially as claimed including a method of accessing data in a data stored in a data storage location, the method comprising:

a server receiving from a client a request for accessing data related to a file [i.e. acquire information] [(a), Figure 8; Abstract; col 4, lines 16-25; and col 7, lines 44-51];

in response to the request for data, the server returning to the client metadata of the file including information specifying a data storage location for the file [(b), Figure 8; col 2, lines 36-43; and col 7, lines 44-51].

Yasue does not specifically disclose

using the metadata of the file, the client producing at least one data access command for accessing the data storage location.

Burns discloses

using the metadata of the file, the client producing at least one data access command for accessing the data storage location [Figure 4; col 9, lines 1-6; and col 9, lines 41-col 5, lines 4].

It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Yasue and Burns because Burns' teaching of data access command would allow to modify access information in a more efficient manner.

9. As per claim 53, Yasue discloses the client writes data to the data storage locations [i.e. update] [col 2, lines 51-67], modifies the metadata from server in accordance with the data storage locations to which the data is written [col 4, lines 45-56], and sends the modified metadata to the server [col 3, lines 11-21].

10. As per claim 54, Yasue discloses the client sends the modified metadata to the file server after the client writes the data to the data storage [col 10, lines 22-29].

11. As per claim 61, it is program product claimed of claim 50, it is rejected for similar reasons as stated above in claim 50.

12. As per claims 64 and 65, they are program product claimed of claims 53 and 54, they are rejected for similar reasons as stated above in claims 53 and 54.

13. Claims 51, 52, 55-60, 62, 63 and 66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yasue [US Patent No 6,289,345], in view of Burns et al. [US Patent No 6,088,694], and further in view of Schmuck et al. [US Patent No 6,032,216].

14. As per claim 51, Yasue and Burns do not specifically disclose granting to the client a lock on at least a portion of the file. Schmuck discloses granting to the client a lock on at least a portion of the file [col 33, lines 37-57]. It would have been obvious to a person skill in the art at the time the invention was made to combine Yasue, Burns and Schmuck because Schmuck's locking mechanism would provide efficient basic file control in a shared disk environment for multiple computers [Schmuck, col 3, lines 50-57].

15. As per claim 52, Schmuck discloses a plurality of clients share read-write access to the file [i.e. shared disks] [Abstract], and the server grants respective read locks and write locks to the client [Abstract; and col 3, lines 40-48].

16. As per claim 55, Schmuck discloses the client has a lock manager that responds to a request from an application process of the client for access to the file by granting to the application process a local file lock on at least a portion of the file; and then sending to the file server said at least one request for access to the file [col 32, lines 53-59].

17. As per claim 56, it is rejected for similar reasons as stated above in claims 50 and 54. Furthermore, Yasue discloses dynamically linking application programs of the client with input-output related operating system routines of the client [i.e. component] [Figure 2; and col 5, lines 1-11].

18. As per claim 57, it is rejected for similar reasons as stated above in claims 50 and 53.

19. As per claim 58, it is rejected for similar reasons as stated above in claim 54.

20. As per claim 59, Yasue and Burns do not specifically disclose the client performs asynchronous write operations upon the data storage locations, and wherein the client sends the modified metadata to the server in response to a commit request from an application process of the client. Schmuck discloses the client performs asynchronous write operations upon the data storage locations, and wherein the client sends the modified metadata to the server in response to a commit request from an application process of the client [col 29, lines 41-56]. It would have been obvious to a person skill

in the art at the time the invention was made to combine the teaching of Yasue, Burns and Schmuck because Schmuck's teaching would provide updating information to maintain its integrity.

21. As per claim 60, Schmuck discloses the client performs asynchronous write operations upon the data storage locations, and wherein the client sends the modified metadata to the file server when the client requests the file server to close the file [col 42, lines 4-10].

22. As per claims 62 and 63, they are program product claimed of claims 51 and 52, they are rejected for similar reasons as stated above in claims 51 and 52.

23. As per claim 66, it is program product claimed of claim 55, it is rejected for similar reasons as stated above in claim 55.

24. A shortened statutory period for response to this action is set to expire **3 (three) months and 0 (zero) days** from the mail date of this letter. Failure to respond within the period for response will result in **ABANDONMENT** of the application (see 35 U.S.C 133, M.P.E.P 710.02, 710.02(b)).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dustin Nguyen whose telephone number is (703) 305-5321. The examiner can normally be reached on flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Follansbee John can be reached on (703) 305-8498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dustin Nguyen
Examiner
Art Unit 2154

JOHN FOLLANSBEE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100